



S T O L L · K E E N O N · O G D E N  
P L L C

2000 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KY 40202-2828

MAIN: (502) 333-6000  
FAX: (502) 333-6099  
www.skofirm.com

**W. DUNCAN CROSBY III**  
DIRECT DIAL: (502) 560-4263  
DIRECT FAX: (502) 627-8754  
Duncan.crosby@skofirm.com

RECEIVED

DEC 10 2007

PUBLIC SERVICE  
COMMISSION

December 10, 2007

**HAND DELIVERED**

Elizabeth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

**RE: *The Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company Demand-Side Management for the Review, Modification, and Continuation of Energy Efficiency Programs and DSM Cost Recovery Mechanisms***  
**Case No. 2007-00319**

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten copies of the Objection of Louisville Gas and Electric Company and Kentucky Utilities Company to the Attorney General's Motion to Hold in Abeyance in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions please contact me at your convenience.

Yours very truly,

W. Duncan Crosby III

WDC:ec  
Enclosures  
cc: Parties of Record

400001.128674/502026.1

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**RECEIVED**  
DEC 10 2007  
PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

**THE JOINT APPLICATION OF LOUISVILLE )**  
**GAS AND ELECTRIC COMPANY AND )**  
**KENTUCKY UTILITIES COMPANY DEMAND- )**  
**SIDE MANAGEMENT FOR THE REVIEW, )** **CASE NO. 2007-00319**  
**MODIFICATION, AND CONTINUATION OF )**  
**ENERGY EFFICIENCY PROGRAMS AND DSM )**  
**COST RECOVERY MECHANISMS )**

**OBJECTION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND  
KENTUCKY UTILITIES COMPANY TO THE ATTORNEY GENERAL'S  
MOTION TO HOLD IN ABEYANCE**

Louisville Gas and Electric Company and Kentucky Utilities Company (collectively “Companies”), by counsel, hereby object to the Office of the Attorney General’s (“AG”) Motion to Hold in Abeyance this proceeding until the Commission resolves Case No. 2007-00477. Any prejudice to the Companies aside, customers will be harmed by delaying the implementation of the Companies’ proposed Energy Efficiency Programs (“Programs”). Moreover, Case No. 2007-00477 is an administrative proceeding, instigated by statute, the aim of which is to produce a report to the Legislative Research Commission (“LRC”); there simply is no reason that the Commission cannot deliberate upon and approve the Programs while also proceeding in Case No. 2007-00477. Finally, the clear purpose of the Section 50 of Kentucky’s 2007 Energy Act is to encourage the broader implementation of energy efficiency programs, such as the Companies’ proposed Programs.

In further support of their Objection, the Companies state:

**I. Because the Companies' Proposed Energy Efficiency Programs Are Projected to Result in Over \$470 Million in Net Benefits, Delaying the Implementation of the Programs Will Harm Customers in Terms of Lost Savings.**

The Companies have shown in this proceeding that their proposed Energy Efficiency Programs will produce net economic benefits in the range of \$471 - \$505 million, (present valued to 2007).<sup>1</sup> These are dramatic savings, and the sooner the Companies can implement the Programs, the sooner the Companies' customers can begin to benefit from them.

The AG's Motion to Hold in Abeyance ignores the harm to customers that delaying these Programs will cause. Instead, the AG asserts – with no evidentiary support: “Holding this matter in abeyance should not prejudice the Companies' application as the Commission has already provided in its November 30, 2007 Order that the Companies may continue their existing programs until such time and the Commission issues further orders in the matter.”<sup>2</sup> Prejudice to the Companies aside, there can be no doubt that delaying the implementation of the proposed Energy Efficiency Programs will have a cost, and the Companies' customers will bear a portion of it.

Examples of the economic harm caused by delaying the Programs come easily to mind. Delaying the issuance of Compact Florescent Light (“CFL”) discount coupons will result in fewer CFLs being purchased and used. In turn, the Companies' customers likely will use – and pay for – more energy to meet their lighting needs than would have been the case had the High Efficiency Lighting Program been in place sooner to encourage the purchase and use of CFLs. Delaying the implementation of online home energy audits will result in fewer people being aware of energy saving measures they can implement in their homes, resulting in higher energy use and cost than otherwise would have been the case. These are just two of many examples of

---

<sup>1</sup> Application, Volume II, Appendix B-1, page 1, line item “Total Benefits”.

<sup>2</sup> AG's Motion to Hold in Abeyance at 2.

ways in which customers will be harmed by delaying the approval and implementation of the Companies' proposed Energy Efficiency Programs. To help prevent this harm, the Companies respectfully submit that the Commission should deny the AG's Motion and should proceed expeditiously to approve the Programs.

**II. The Purpose of Case No. 2007-00477 Is to Facilitate the Commission's Issuing a Report to the LRC on Energy Efficiency Initiatives and Other Issues, Which Does Not Require this Proceeding to Be Held in Abeyance.**

As the Commission states in its November 20, 2007 Order initiating Case No. 2007-00477, Section 50 of the 2007 Energy Act requires the Commission to issue a report to the LRC concerning four topics:

1. Eliminating impediments to the consideration and adoption by utilities of cost-effective demand-management strategies for addressing future demand prior to Commission consideration of any proposal for increasing generating capacity;
2. Encouraging diversification of utility energy portfolios through the use of renewables and distributed generation;
3. Incorporating full-cost accounting that considers and requires comparison of life-cycle energy, economic, public health, and environmental costs of various strategies for meeting future energy demand; and
4. Modifying rate structures and cost recovery to better align the financial interests of the utility with the goals of achieving energy efficiency and lowest life-cycle energy costs to all classes of ratepayers.

The AG argues for holding this proceeding in abeyance pending the final resolution of Case No. 2007-00477 because, "[T]he Commission is investigating issues surrounding cost-effective Demand-Side Management programs and energy efficiency programs including cost recovery, issues that are exactly those same issues to be considered in the instant application."<sup>3</sup>

As can be seen from the quoted portion of Case No. 2007-00477's initiating Order, it is true that

---

<sup>3</sup> AG's Motion to Hold in Abeyance at 2.

the Commission will investigate issues like cost recovery to achieve energy efficiency in that case. But what the Companies' Application in this proceeding demonstrates is that the cost recovery and incentive structures already in place have motivated the Companies not only to seek to maintain existing DSM and energy efficiency programs, but also to expand them to create even more demand and energy savings. Thus, approving the Companies' Application could serve to inform the Commission and enhance the report that the Commission will submit to the LRC, and certainly would not impede the report.

**III. An Evident Purpose of Section 50 of Kentucky's 2007 Energy Act Is to Encourage Energy Efficiency Programs, Which Can Be Best Achieved by Approving the Companies' Proposed Energy Efficiency Programs in a Timely Manner.**

It is deeply ironic that the AG's Motion advocates for impeding the approval of the Companies' Application to implement DSM and energy efficiency programs on the basis the Commission must first complete a report about "[e]liminating impediments to the consideration and adoption by utilities of cost-effective demand-management strategies ...."<sup>4</sup> Contrary to the AG's support for holding this proceeding in abeyance, the clear thrust of Section 50 of the 2007 Energy Act is to encourage, not discourage, the development and implementation of energy efficiency programs. The Companies therefore respectfully request the Commission to deny the AG's Motion to Hold in Abeyance, and to proceed deliberately, but also with all due speed, to approve the Companies' proposed Energy Efficiency Programs.

**WHEREFORE**, Louisville Gas and Electric Company and Kentucky Utilities Company object to the Office of the Attorney General's Motion to Hold in Abeyance, and respectfully renew their request that the Commission issue an order approving the Companies' Application.

---

<sup>4</sup> Case No. 2007-00477, Order at 1 (Nov. 20, 2007) (emphasis added).

Dated: December 10, 2007

Respectfully submitted,



Kendrick R. Riggs  
W. Duncan Crosby III  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000

Allyson K. Sturgeon  
Senior Corporate Attorney  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-2088

Counsel for Louisville Gas and Electric  
Company and Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Objection was served on the following persons on the 10th day of December 2007, by United States mail, postage prepaid:

Dennis G. Howard II  
Assistant Attorney General  
Office of the Attorney General  
Office of Rate Intervention  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

Joe F. Childers  
Getty & Childers  
1900 Lexington Financial Center  
250 West Main Street  
Lexington, KY 40507

Michael L Kurtz  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OH 45202



\_\_\_\_\_  
Counsel for Louisville Gas and Electric  
Company and Kentucky Utilities Company